

DEPARTMENT OF THE TREASURY

U.S. Customs Service

**Announcement of a General Program Test Regarding
Post-Entry Amendment Processing**

AGENCY: Customs Service, Treasury.

ACTION: General notice.

SUMMARY: This notice announces Customs plan to conduct a test program that allows importers to amend already filed entry summaries prior to liquidation by filing a post entry amendment on either an individual or quarterly basis, depending on the type of error being corrected. The notice invites public comments concerning any aspect of the test, informs interested members of the public how to participate in the test, and describes the procedure to be followed by test participants.

DATES: The test will commence no earlier than [30 days from November 28, 2000] and will run for approximately one year. The test may be extended if warranted. Comments concerning this notice and all aspects of the announced test must be received on or before [20 days from November 28, 2000].

ADDRESSES: Written comments may be submitted to and inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Bruce Ingalls, Office of Field Operations (202-927-1082).

SUPPLEMENTARY INFORMATION:**BACKGROUND****Liquidation Procedure and Post Entry Amendment Filing**

Liquidation is the process by which Customs, after receiving the entry summary filed by the importer/broker (hereafter referred to as the importer or importers) relative to an entry or release of merchandise into the United States, fixes the final appraisement, classification, and assessment of duties, taxes, and fees respecting that entered merchandise (19 U.S.C. 1500). Under 19 U.S.C. 1514, an importer can challenge a liquidation by filing a protest within 90 days of the date of liquidation. Under 19 U.S.C. 1501, Customs has the authority to reliquidate an entry after liquidation within the same 90-day period. Thus, under the Customs laws, a liquidation becomes final and binding on all parties after expiration of that 90-day period.

Under 19 U.S.C. 1520(c)(1), Customs, notwithstanding the finality of liquidation concept, is authorized to reliquidate an entry within one year of the date of liquidation to correct a mistake of fact, clerical error, or other inadvertence in the entry or liquidation. An importer seeking reliquidation under the statute must file a petition with evidence establishing the mistake, error, or inadvertence.

Customs has implemented a 314-day liquidation cycle, under which the liquidation of an entry typically occurs (approximately) 314 days after the date of entry. In order to allow importers to make amendments to entry summaries already filed but not yet liquidated, Customs implemented a process by which importers could submit letters for that purpose. These letters are called

Supplementary Information Letters (SILs) and usually result, upon liquidation, in a refund of duties, taxes, and/or fees deposited or a bill for additional duties, taxes, and/or fees owed (if these amounts were not submitted with the letter). The SIL policy (for ABI users, see Administrative Message 97-0727, dated August 3, 1997; for non-ABI users contact the local port office), though effective initially, has produced an increased paperwork and manpower burden for both importers and Customs.

To address these problems and other concerns, Customs is announcing this test of the post entry amendment procedure. The test procedure, which may eventually replace the SIL policy, allows importers to continue to make amendments to already filed entry summaries prior to liquidation, and it reduces the workload on importers and Customs by providing for quarterly reporting of some amendments. This quarterly tracking report frees importers from the task of immediately filing a SIL upon each discovery of an error and frees Customs from dealing with these errors as they are reported on a daily or weekly basis. Under the test, some errors must be reported upon discovery and are thus not eligible for inclusion in a quarterly report.

(Customs notes that errors in entry summaries, depending on the circumstances, may be the result of simple mistake or culpable negligence, gross negligence, or even fraud. For purposes of this test, the term “error” will be used generically, without distinguishing between these concepts. (See however the “Misconduct” section which holds that all test participants are subject to the usual array of penalties, liquidated damages, etc., while participating in the test.))

Administrative Exemption and Errors of More Than \$20

Under 19 U.S.C. 1321(a)(1), Customs is authorized to disregard a minimal difference between the amount of duties, taxes, and fees deposited at entry and that amount (plus interest if applicable) actually found to be due (at liquidation). This is one of several statutory administrative exemptions. Section 159.6 of the Customs Regulations (19 CFR 159.6), which implements 19 U.S.C. 1321(a)(1), provides that Customs will disregard a difference in these (deposited and actual due) amounts of less than \$20. Entry summaries processed under the test that evidence revenue differences of less than \$20 will be reported on a quarterly basis rather than an individual basis. Differences of \$20 or more will continue to be reported to Customs upon discovery.

THE POST ENTRY AMENDMENT PROCEDURE GENERALLY

Customs recognizes that, in some circumstances, the 314-day liquidation cycle presents a problematic or undesirable suspension of time between the filing of the entry summary and the liquidation. While that suspension of time serves a beneficial purpose in most cases, an importer that discovers an error in the entry summary during that period may want or need to resolve that error sooner rather than later. The SIL policy has been shown to be less and less effective in handling the volume of pre-liquidation corrections sought by importers.

Like the SIL policy, the post entry amendment test procedure will allow importers to amend entry summaries prior to liquidation. Unlike the SIL policy, the test procedure allows importers to report certain amendments on a quarterly basis, a feature that provides convenience and saves time and resources. Thus,

a post entry amendment is reported in one of two ways: (1) through the filing of an individual amendment letter upon discovery of the error or (2) through the quarterly tracking report.

Both revenue related and non-revenue related errors may be reported through the test procedure. Revenue related errors are those that affect the amount of duties, taxes, and or fees applicable to an entry of merchandise. They involve two types: (1) those of \$20 or more and (2) those of less than \$20. Non-revenue related errors are those that do not affect the amount of applicable duties, taxes, and or fees due; they pertain rather to errors in the information that must be provided in the entry summary, such as country of origin, quantity of the merchandise, and tariff number under the Harmonized Tariff Schedule of the United States (HTSUS). Non-revenue related errors also involve two types: (1) those errors that must be reported to the Bureau of the Census (Census Bureau) under applicable law and Census Bureau rules and (2) those errors that need not be reported to the Census Bureau. (Guidelines for distinguishing between these kinds of errors are set forth under “The Test Program” section immediately below.)

THE TEST PROGRAM

Participation in the test is voluntary. There are no application procedures or eligibility requirements. To participate in the test, an importer need only follow the procedures set forth below to amend entry summaries (not informal entries) prior to liquidation. Under the test, all amendments must be reported through either an individual amendment letter or a quarterly tracking report, depending on

the circumstances. The alternative to these procedures is to continue to file individual SILs for each correction or wait until the entry liquidates (typically about 314 days after the date of entry) to file a protest under 19 U.S.C. 1514 and Part 174 of the Customs Regulations (19 CFR Part 174) or, if appropriate, a petition for reliquidation under 19 U.S.C. 1520(c)(1). It is also noted that, if appropriate under the circumstances, the prior disclosure procedure under 19 U.S.C. 1592(c)(4) (and 19 CFR 162.74) is available to both participants in the test and non-participants. Under the SIL policy, all letters must be submitted immediately upon discovery of the error regardless of the amount of the under or overpayment.

The Filing Requirement

Under the test, whether filing an individual amendment letter or a quarterly tracking report, test participants must explain the errors and submit corrections of them for Customs evaluation. An individual amendment letter must be filed for: (1) revenue related errors in the entry summary that result in either an overpayment or underpayment of duties, taxes, and or fees of \$20 or more, or any amount relative to antidumping or countervailing duties, and (2) non-revenue related statistical information errors that must be reported to the Census Bureau. The quarterly tracking report must be used to report: (1) revenue related errors that result in either an overpayment or underpayment of duties, taxes, and or fees of less than \$20 and (2) non-revenue related statistical information errors that need not be reported to the Census Bureau.

When one entry summary exhibits two or more errors but only one of them meets the requirements for filing an individual amendment letter, the test participant must file an individual amendment letter that covers all the errors, including those that alone would require reporting on a quarterly tracking report.

A post entry amendment filed through an individual amendment letter, as required under the test, will contain a cover sheet obtained from a Customs database designed for that purpose, three copies of the letter describing the nature of the amendment (including the entry summaries and the error(s) involved) and setting forth the corrections, and any additional documentation needed to support the amendment, if appropriate. Each individual letter will be date- and time-stamped upon filing with Customs. (Whether the test participant (or its broker) or Customs personnel will perform this function will be determined by local port policy.)

An individual amendment letter can be filed at any time prior to liquidation of the one or more entries it covers (but promptly after discovery of the error). Customs will accept individual amendment letters that are filed after liquidation but will treat them as protests under 19 U.S.C. 1514 or, if appropriate, as evidence warranting reliquidation under 19 U.S.C. 1501.

A post entry amendment filed through the quarterly tracking report, as required under the test, will require the following information for each correction being reported: record number, entry number, filer, port, importer number, reason code (designating the reason for the change; codes are found in the Customs database), reason description, narrative description, duty difference, tax

difference, fee difference, interest (if appropriate), input date, report date, and report type. This information must be submitted through the Customs database. The report must be filed within 15 calendar days from the last day of the quarter. The quarters are as follows: January 1 - March 31; April 1 - June 30; July 1 to September 30; and October 1 - December 31. Each report should cover all errors (other than those required to be reported on an individual amendment letter) discovered during that quarter unless the liquidation of the entry summaries containing those errors has become final. (Customs emphasizes that participants must file the first quarterly tracking report under the test within 15 days of March 31, 2001.)

Again, if an entry covered in an individual amendment letter or a quarterly tracking report has been liquidated, the filing (of that letter or report) relative to that entry summary will be treated under 19 U.S.C. 1514 (protest) or 1501 (reliquidation), as appropriate.

Revenue Related Errors

Revenue related errors of \$20 or more:

For revenue related errors of \$20 or more, or any dollar amount relative to antidumping or countervailing duty errors, test participants must file an individual amendment letter with Customs upon discovery of the error. Upon evaluation of an individual amendment letter, Customs will determine whether it agrees or disagrees with the amendment. If Customs agrees with the amendment, it will unset the liquidation cycle and issue a "change liquidation." In that instance, Customs will issue either a refund or a bill in the amount it determines to be

owed. If the participant tenders with the letter the correct amount of duties, taxes, fees, and/or interest due, Customs will not issue a bill. If Customs disagrees, determining that there is no error, it will unset the liquidation cycle and issue a “no change” liquidation without issuance of a refund or a bill. If Customs determines that there is another error, other than the one (or those) reported, it will liquidate accordingly. If the participant disagrees with Customs liquidation decision, it may file a protest under 19 U.S.C. 1514 or, if appropriate, a petition for reliquidation under 19 U.S.C. 1520(c)(1).

Revenue related errors of less than \$20:

Revenue related errors of less than \$20 (except those relative to antidumping or countervailing duties, in which case an individual amendment letter is required) must be reported on a quarterly tracking report filed with Customs. Upon evaluation of a quarterly tracking report, Customs will determine whether the amendments are accurate but will not unset the liquidation cycle. Customs will exercise its administrative exemption authority and disregard duties, taxes, and/or fees found owing in an amount of less than \$20. The amendments may be taken into account when Customs, in due course, liquidates the reported entries. If the test participant disagrees with the liquidation, it may file a protest under 19 U.S.C. 1514 or, if appropriate, a petition for reliquidation under 19 U.S.C 1520(c).

Guidelines for processing revenue related errors:

- a) Under \$20/underpayment of duties, taxes, and or fees:

- Importer files quarterly tracking report.
 - Customs does not unset liquidation cycle and issues a “no change” liquidation in due course.
 - Upon liquidation, Customs disregards underpayments of less than \$20 per entry summary.
- b) Under \$20/overpayment of duties, taxes, and or fees:
- Importer files quarterly tracking report.
 - Customs does not unset liquidation cycle and issues a “no change” liquidation in due course.
 - After liquidation, importer may protest or petition for reliquidation.
- c) \$20 or more/underpayment of duties, taxes, and or fees:
- Importer files individual amendment letter with or without additional duties, taxes, fees, and interest (if applicable) owed.
 - Customs unsets liquidation cycle and liquidates accordingly.
 - Customs issues bill for payment if necessary.
 - After liquidation, importer may protest or petition for reliquidation.
- d) \$20 or more/overpayment of duties, taxes, and or fees:
- Importer files individual amendment letter.
 - Customs unsets liquidation cycle and liquidates accordingly.
 - Customs issues refund.

- After liquidation, importer may protest or petition for reliquidation.

Non-Revenue Related Errors

Statistical information errors:

The General Statistical Notes of the HTSUS (19 U.S.C. 1202) require importers to provide certain information in entry summaries, including the country of origin of the entered merchandise, a description of that merchandise, its quantity, any quota visa number, the HTSUS number, the value of the merchandise, and other charges and information regarding the merchandise (see also 19 CFR 141.61(e)). After receipt from the importer, this information is submitted by Customs to the Census Bureau where it is maintained as a source of national import data. Non-revenue related errors are those involving this required statistical information.

Whether a test participant must file an individual amendment letter or a quarterly tracking report for statistical information errors depends on whether the Census Bureau, under its rules, requires the reporting of the corresponding corrections. Under those rules, errors in required statistical information that exceed a certain level must be reported and errors that fall below that level are not reported.

For statistical information errors that must be reported to the Census Bureau, the test participant must file an individual amendment letter. If Customs agrees with the letter, it will unset the liquidation cycle and issue a “change liquidation,” correcting the erroneous information. If Customs disagrees,

concluding that there has not been an error, it will issue a “no change” liquidation. After liquidation, the test participant may file a protest under 19 U.S.C. 1514 or, if appropriate, a petition requesting reliquidation under 19 U.S.C. 1520(c). For errors that do not require reporting to the Census Bureau, the test participant must file a quarterly tracking report. Customs will evaluate the report but not unset the liquidation cycle, whether or not it agrees that there has been error. After liquidation in due course, the participant may file a protest or a petition requesting reliquidation.

Guidelines for determining when statistical information errors require the filing of an individual letter or a quarterly tracking report:

These guidelines show, for each of four categories of merchandise, that a post entry amendment concerning statistical information errors that meet (and exceed) Census Bureau statistical reporting levels must be filed through an individual amendment letter and that a post entry amendment concerning statistical information errors that do not meet those levels must be filed through a quarterly tracking report. The statistical levels are also set forth.

a) Quota merchandise:

(i) Statistical information errors that meet Census Bureau levels and require the filing of a post entry amendment through an individual amendment letter:

- (A) Any error in the country of origin of the merchandise, net quantity of the merchandise, visa number, and HTSUS number;
- (B) A value error when the difference between the entered and correct values is \$10,000 or more; and

(C) An error relative to other charges (freight, insurance, and all other costs and expenses incurred in bringing the merchandise from the port of export to the U.S. port (see General Statistical Note (a)(xiv), HTSUS)) when the difference between the entered and correct values is \$10,000 or more.

(ii) Statistical information errors that do not meet Census Bureau levels and require the filing of a post entry amendment through a quarterly tracking report:

(A) A value error when the difference between the entered and correct values is less than \$10,000; and

(B) An error relative to other charges (freight, etc.) when the difference between the entered and correct values is less than \$10,000.

b) Non-quota textile merchandise of Chapters 50 through 65, HTSUS, that is subject to a textile category number:

(i) All statistical information errors (country of origin, quantity, HTSUS number, value, other charges (freight, etc.)) relative to this category of merchandise meet Census Bureau levels and require the filing of a post entry amendment through an individual amendment letter when the entered value of the merchandise is \$3,000 or more.

(ii) All statistical information errors relative to this category of merchandise do not meet Census Bureau levels and require the filing of a post entry amendment through a quarterly tracking report when the entered value of the merchandise is less than \$3,000.

c) Merchandise subject to a Voluntary Restraint Agreement:

(i) Statistical information errors that meet Census Bureau levels and require the filing of a post entry amendment through an individual amendment letter:

- (A) Any error in country of origin, quantity of merchandise, and visa or HTSUS numbers;
- (B) A value error when the difference between the entered and correct values is \$10,000 or more; and
- (C) An error relative to other charges (freight, etc.) when the difference between the entered and correct values is \$10,000 or more.

(ii) Statistical information errors that do not meet Census Bureau levels and require the filing of a post entry amendment through a quarterly tracking report:

- (A) A value error when the difference between the entered and correct values is less than \$10,000; and
- (B) An error relative to other charges (freight, etc.) when the difference between the entered and correct values is less than \$10,000.

d) All other merchandise:

(i) Statistical information errors that meet Census Bureau levels and require the filing of a post entry amendment through an individual letter:

- (A) An error in the country of origin when the entered value for the line item is \$10,000 or more;
- (B) An error in the net quantity of the merchandise when the difference between the entered and correct quantities is at least 10% and the entered value for the line item is \$10,000 or more;
- (C) A value error when the difference between the entered and the correct values is \$10,000 or more;
- (D) An error in the HTSUS number when the entered value for the line item is \$10,000 or more;
- (E) An error relative to other charges (freight, etc.) when the difference between the entered and correct values is \$10,000 or more; and
- (F) Any concentration of multiple entry summaries with erroneous reportable data when the accumulated total value involved is substantial but those entry summaries individually do not meet Census Bureau levels. (This reflects a Census Bureau requirement to make corrections to each entry summary included in the concentration of multiple entry summaries that meet the above description when the volume of entry summaries is substantial and the value level of each entry summary is also substantial but less than the required level. For example, a concentration of multiple entry summaries evidencing a country of origin error when the volume of those

entry summaries is substantial and the per line item value for each entry summary is also substantial though less than \$10,000 (the ordinarily required level). For guidance on the meaning of “substantial” in these contexts, contact the local Customs port office.)

(ii) Statistical information errors that do not meet Census Bureau levels and require the filing of a post entry amendment through a quarterly tracking report:

- (A) An error in the country of origin when the entered value for the line item is less than \$10,000;
- (B) An error in the net quantity of the merchandise when the difference between the entered and correct quantities is less than 10 percent or the entered value for the line item is less than \$10,000;
- (C) A value error when the difference between the entered and correct values is less than \$10,000;
- (D) An error in the HTSUS number when the entered value for the line item is less than \$10,000;
- (E) An error relative to other charges (freight, etc) when the difference between the entered and correct values of the merchandise is less than \$10,000.

Guidelines for processing non-revenue related statistical information errors:

- a) Statistical information error requiring report to Census Bureau:

- Importer files individual amendment letter.
- Customs unsets liquidation cycle and issues a “change liquidation”.
- After liquidation, importer may file a protest or petition.

b) Statistical information error not requiring report to Census Bureau:

- Importer files quarterly tracking report.
- Customs does not unset liquidation cycle and issues a “no change” liquidation in due course.
- After liquidation, importer may file a protest or petition.

Importers who voluntarily participate in the test commit, by such participation, to report all errors through the test procedure by filing either individual amendment letters or quarterly tracking reports (as appropriate under the above procedures) for the duration of the test.

Customs emphasizes that the test applies only to the described procedure for reporting entry summary errors prior to liquidation. The test procedure has no effect on Customs enforcement authority or on other statutory or regulatory provisions and requirements relating to admissibility, restricted or prohibited merchandise, other agency requirements, etc. It is noted that even during the test, the administrative exemption under which Customs disregards ordinary underpayments of up to \$20, does not apply to antidumping and countervailing duties.

AUTHORIZATION FOR THE TEST

Pursuant to Customs Modernization provisions in the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057, 2170 (December 8, 1993), Customs amended its regulations (19 CFR chapter I), in part, to enable the Commissioner of Customs to conduct limited test programs or procedures designed to evaluate the effectiveness of new technology or operations procedures which have as their goal the more efficient and effective processing of passengers, carriers, and merchandise. Section 101.9(a) of the Customs Regulations (19 CFR 101.9(a)) allows for general testing for this purpose. See T.D. 95-21. This test is established pursuant to that regulatory provision.

MISCONDUCT

The test is open to all importers who elect to follow the procedures set forth in this document for correcting already filed entry summaries prior to liquidation. However, a participant making and amending entries under the test procedures will be subject to the usual penalties, liquidated damages, and other administrative sanctions for any Customs law violations.

EVALUATION OF THE TEST

Although by no means exclusive, the following evaluation factors may be used by Customs to assess the merits of the test procedure:

1. Workload impact;
2. Policy and procedure accommodations;
3. System efficiency;

4. Operational efficiency; or
5. Other issues raised by public comment or by the test participants.

Results of the test will be formulated at the conclusion of the test and will be made available to the public upon request. The test may be extended if warranted. Additional information on the post entry amendment procedure can be found under "Importing and Exporting" at [http:// www.customs.gov](http://www.customs.gov).

Dated: November 22, 2000

Acting Assistant Commissioner
Office of Field Operations
John H. Heinrich